

Senate Bill No. 1105

Passed the Senate August 30, 2001

Secretary of the Senate

Passed the Assembly August 20, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 56341.1 to, and to repeal and add Section 56341 of, the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

SB 1105, Margett. Special education.

(1) Existing law requires that each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs be conducted by an individualized education program team and include certain representatives.

This bill would delete this provision and replace it with another similar provision, pertaining to the individualized education program team, but would include the pupil's regular education teacher. The bill would revise other requirements relating to the individualized education program.

The bill would require the individualized education program team to consider specified criteria when developing each pupil's individualized education program, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 56341 of the Education Code is repealed.

SEC. 2. Section 56341 is added to the Education Code, to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:



(1) One or both of the pupil's parents, a representative selected by a parent, or both, in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(2) At least one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated by the district, special education local plan area, or county office to represent the others.

The regular education teacher of an individual with exceptional needs shall, to the extent appropriate, participate in the development, review, and revision of the pupil's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and strategies for the pupil and supplementary aids and services, and program modifications or supports for school personnel that will be provided for the pupil, consistent with paragraph (3) of subsection (a) of Section 300.347 of Title 34 of the Code of Federal Regulations.

(3) At least one special education teacher of the pupil, or if appropriate, at least one special education provider of the pupil.

(4) A representative of the district, special education local plan area, or county office who meets all of the following :

(A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.

(B) Is knowledgeable about the general curriculum.

(C) Is knowledgeable about the availability of resources of the local educational agency.

(5) An individual who conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil, and is familiar with the assessment results or recommendations. The individual shall be qualified to interpret the instructional implications of the assessment results. The individual may be a member of the team described in paragraphs (2) to (6), inclusive.

(6) At the discretion of the parent, guardian, or the district, special education local plan area, or county office, other individuals who have knowledge or special expertise regarding the



pupil, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the individualized education program team.

(7) Whenever appropriate, the individual with exceptional needs.

(c) For a pupil suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. At least one team member other than the pupil's regular teacher shall observe the pupil's academic performance in the regular classroom setting. In the case of a child who is less than schoolage or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(d) (1) In the case of transition services, the district, special education local plan area, or county office shall invite an individual with exceptional needs of any age to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of either, or both, of the following:

(A) The individual's transition service needs under subdivision (a) of Section 56345.1.

(B) The needed transition services for the individual under subdivision (b) of Section 56345.1.

(2) If the individual with exceptional needs does not attend the individualized education program meeting, the district, special education local plan area, or county office shall take steps to ensure that the individual's preferences and interests are considered.

(3) When implementing the requirements of subdivision (b) of Section 56345.1, the district, special education local plan area, or county office also shall invite to the individualized education program team meetings a representative that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the district, special education local plan area, or county office shall take other steps to obtain participation of the other agency in the planning of any transition services.



(e) A district, special education local plan area, or county office may designate another local educational agency member of the individualized education program team to serve also as the representative required pursuant to paragraph (4) of subdivision (b) if the requirements of subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b) are met.

SEC. 3. Section 56341.1 is added to the Education Code, to read:

56341.1. (a) When developing each pupil's individualized education program, the individualized education program team shall consider the following:

(1) The strengths of the pupil and the concerns of the parents or guardians for enhancing the education of the pupil.

(2) The results of the initial assessment or most recent assessment of the pupil.

(3) As appropriate, the results of the pupil's performance on any general state or districtwide assessment programs.

(b) The individualized education program team shall do the following:

(1) In the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.

(2) In the case of a pupil with limited English proficiency, consider the language needs of the pupil as those needs relate to the pupil's individualized education program.

(3) In the case of a pupil who is blind or visually impaired, provide for instruction in braille and the use of braille unless the individualized education program team determines, after an assessment of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the pupil's future needs, that instruction in braille is not appropriate for the pupil.

(4) Consider the communication needs of the pupil, and in the case of the pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode.



(5) Consider whether the pupil requires assistive technology devices and services.

(c) If, in considering the special factors described in subdivisions (a) and (b), the individualized education program team determines that a pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive a free appropriate public education, the individualized education program team shall include a statement to that effect in the pupil's individualized education program.

(d) The individualized education program team shall revise the individualized education program, as appropriate, to address among other matters the following:

(1) Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.

(2) The results of any reassessment conducted pursuant to Section 56381.

(3) Information about the pupil provided to, or by, the parents or guardians, as described in subdivision (b) of Section 56381.

(4) The pupil's anticipated needs.

(5) The factors described in subdivision (a).

(e) The parent or guardian shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings, relating to eligibility for special education and related services, recommendations, and program planning.

(f) (1) Notwithstanding Section 632 of the Penal Code, the parent or guardian, district, special education local plan area, or county office shall have the right to record electronically the proceedings of individualized education program team meetings on an audiotape recorder. The parent or guardian, district, special education local plan area, or county office shall notify the members of the individualized education program team of their intent to record a meeting at least 24 hours prior to the meeting. If the district, special education local plan area, or county office initiates the notice of intent to audiotape record a meeting and the parent or guardian objects or refuses to attend the meeting because it will be tape recorded, then the meeting shall not be recorded on an audiotape recorder.

(2) The Legislature hereby finds as follows:



(A) Under federal law, audiotape recordings made by a district, special education local plan area, or county office are subject to the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), and would, therefore, be subject to the confidentiality requirements of the regulations under Sections 300.560 to 300.575, inclusive, of Part 34 of the Code of Federal Regulations.

(B) Parents or guardians have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to do all of the following:

(i) Inspect and review the tape recordings.

(ii) Request that the tape recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the individual with exceptional needs.

(iii) Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading, or in violation of the individual's rights of privacy or other rights.

(g) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and results only in costs mandated by the federal government, within the meaning of Section 17556 of the Government Code.



Approved _____, 2001

Governor

